JULIAN M. BAUM (CA State Bar No. 130892)
JULIAN M. BAUM & ASSOCIATES
9 Tenaya Lane
Novato, California 94947
Telephone: (415) 892-3152
Facsimile: (888) 452-3849
E-Mail: JMB@JMBLawGroup.Com

Attorneys for Plaintiff
DANA CICERONE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DANA CICERONE.,	Case No.
Plaintiff,	**COMPLAINT**
v.	*[ERISA, 29 U.S.C. Sections 1001 et seq.]*
GROUP LONG TERM DISABILITY PLAN FOR EMPLOYEES OF FOTO-KEM INDUSTRIES, INC.; FOTO-KEM INDUSTRIES, INC., in its capacity as designated Plan Administrator,	
Defendants.	

JURISDICTION

1. This is an action for equitable relief, for benefits, and for related relief under a group long-term disability insurance policy. Plaintiff's claims for relief arise under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sections 1001 *et seq*.

(hereafter, "ERISA"). This Court has subject matter jurisdiction of this action under 29 U.S.C. § 1132 and 28 U.S.C. § 1331.

INTRADISTRICT ASSIGNMENT

2. A substantial part of the events or omissions which give rise to plaintiff's claims occurred in the County of Marin, California.

FIRST CLAIM FOR RELIEF

[for benefits due under the defendant ERISA plan]

3. Plaintiff is informed and believes, and on that basis alleges, that defendant GROUP LONG TERM DISABILITY PLAN FOR EMPLOYEES OF FOTO-KEM INDUSTRIES, INC. (hereafter, the "Plan") is, and at all relevant times was, an employee welfare benefit plan within the meaning of ERISA, 29 U.S.C. §§ 1002 and 1003. Plaintiff is informed and believes, and on that basis alleges, that defendant FOTO-KEM INDUSTRIES, INC ("FOTO-KEM"). is the entity designated under the Plan to serve as the Plan Administrator. FOTO-KEM is sued herein solely in that capacity.

4. Plaintiff is, and at all relevant times was, a Plan participant and a covered beneficiary under the defendant Plan.

5. Plaintiff is, and at all relevant times has been, totally disabled within the meaning of the terms of the Plan.

6. Defendant has failed and refused to pay to plaintiff disability benefits to which plaintiff is entitled under the terms of the Plan.

7. Plaintiff has fulfilled every condition and has duly performed each and every obligation that plaintiff was required to perform under the terms of the Plan in order to be entitled to disability benefits, and is and at all relevant times has been entitled to payment of those benefits under the terms and conditions of the Plan.

8. Defendants have breached their obligations to plaintiff by failing to fulfill their obligations under the Plan and under the applicable provisions of ERISA, including but not limited to the obligation to pay disability benefits under the Plan, by unreasonably

and wrongfully failing to conduct and complete timely a proper investigation and review of plaintiff's claim for disability insurance benefits, by failing to provide relevant documents and information to plaintiff, and by terminating payment of plaintiff's benefits without a reasonable basis for such termination.

9. As a direct and proximate result of defendants' conduct as alleged herein, plaintiff has suffered and will continue to suffer losses compensable under ERISA, including but not limited to loss of disability benefits, interest on those benefits, and attorneys' fees, and expenses.

WHEREFORE, plaintiff respectfully prays for relief as set forth below.

SECOND CLAIM FOR RELIEF
[For Breach of Fiduciary Duty]

10. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1 through 9, inclusive, of this Complaint.

11. Defendants have breached their obligations to plaintiff by failing to fulfill their obligations under the Plan and under the applicable provisions of ERISA, including but not limited to the obligation to pay disability benefits under the Plan, by unreasonably and wrongfully failing to conduct and complete timely a proper investigation and review of plaintiff's claim for disability insurance benefits, by failing to provide relevant documents and information to plaintiff, and by terminating payment of plaintiff's benefits without a reasonable basis for such termination.

12. Defendants have further breached their fiduciary obligations to plaintiff and to other participants in the Plan by adopting and implementing, on a plan-wide basis, an inaccurate and improper interpretation of Plan terms and provisions so as to limit or to deny benefits to plan members, including Plaintiff, who are properly eligible and entitled to be paid their disability benefits.

13. As a direct and proximate result of defendants' conduct as alleged herein, plaintiff has suffered and will continue to suffer losses compensable under ERISA, including but not limited to loss of disability benefits, interest on those benefits, consequential damages, and attorneys' fees and expenses.

WHEREFORE, Plaintiff prays for judgment as set forth below.

THIRD CLAIM FOR RELIEF
[For Statutory Penalties]

14. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1 through 13, inclusive, of this Complaint.

15. Plaintiff, through designated representatives, requested that defendants provide documents and information in accordance with defendants' obligations under ERISA. Defendants failed and refused to do so for more than 30 days, up to and including the present time.

WHEREFORE, Plaintiff prays for judgment as follows:

1. For benefits due under the Plan, under ERISA §502(a)(1)(B);
2. For a declaration clarifying plaintiff's rights under the Plan, under ERISA §502(a)(1)(B);
3. For prejudgment interest;
4. For statutory penalties under ERISA §502(a)(1)(A);
5. For attorneys' fees, costs and expenses; and
6. For such other and further relief, including appropriate equitable relief, as the Court deems just and proper.

Dated: April 12, 2017

Respectfully submitted,
JULIAN M. BAUM & ASSOCIATES

/s/ Julian M. Baum

By: ______________________________
Julian M. Baum
Attorneys for Plaintiff